REMARKS

This Amendment is in response to the Office Action dated January 6, 2010. Applicant respectfully requests reconsideration and allowance of all pending claims in view of the above-amendments and the following remarks.

I.   CLAIM REJECTIONS – 35 USC §102

Claims 17-31 were rejected under 35 U.S.C. §102(e) as being anticipated by Moles et al., U.S. Publication No. 2002/0072359.

A.   **Discussion on Patentability of Amended Claim 1 in View of Herle**

1.   Summary of HERLE

HERLE discloses a method as well as a device which enable a diagnostic to be established and then correction of a fault within a radiocommunication terminal.

The technique disclosed in HERLE is based on three main steps. The first step is linked to the detection of a fault within the radiocommunication terminal and the transmission of a request to perform a test sent by the radiocommunication terminal to a remote diagnostic server. The second step (performed by the server) is related to the identification/choice of a specific test in accordance with the received request and the transmission of a diagnostic program to the radiocommuncation terminal. The third step is related to the reception and the execution of the diagnostic program by the radiocommunication terminal.

Applicant notes that the remote diagnostic server comprises a memory (310, §0055) where the diagnostic programs are stored. Those programs are designed as a function of information comprised within the request sent by the radiocommunication terminal (such as the manufacturer name, the type of the mobile phone, (cf. §0067), etc..).

2.   Novelty of Amended Claim 17 in View of HERLE

The Examiner states that claim 17 as filed is not new in view of HERLE (U.S. 2002/072359).

HERLE discloses the following steps in relation to Applicant's claim 17:

« A method for analyzing the operation of a radiocommunication terminal according to a predetermined radiocommunication protocol, the method comprising the following steps:

- receiving by said radiocommunication terminal an analysis scenario and/or analysis parameter (step 515 (figure 5) :

  Herle discloses an MS diagnostic file 330 is transmitted to MS 112 via SMS or TCP/IP packets);

- transmitting from said radiocommunication terminal data ~~representative of at least one operation to be analyzed~~ to a remote analysis device, via a connection according to said predetermined radiocommunication protocol, subsequent to said step of receiving

  Herle discloses in Figure 5, step 525 : <u>Fault notification</u> is transmitted to the network 100),

  Herle <u>does not disclose</u> transmitting from said radiocommunication terminal <u>data representative of at least one operation to be analyzed</u> to a remote analysis device

- ~~analyzing the transmitted data representative of said at least one operation by the remote analysis device.~~

  Herle <u>does not disclose analysis</u> of transmitted data representative of said at least one operation <u>by the remote analysis device.</u>

Hence, the amended claim 17 is new in view of HERLE (since at least the above previous crossed elements are not disclosed by HERLE).

Indeed, the general concept of an exemplary embodiment of Applicant's disclosure is based on the transmission of some results (after the execution of an analysis scenario) in order to receive eventually some new correction data / parameters. Whereas in HERLE, only a fault notification is sent to a server.

Nothing about the elements comprised within the fault notification and about the processing of such elements is described in HERLE.

According to the an example of Applicant's invention, the execution of a test operation is always followed by a remote analysis (performed by a remote device), whereas according to the HERLE's technique, the processing of a test operation ends up either with the immediate correction of the detected problem (cf. §0068 : « when the testing process is completed, main controller corrects, if possible, the software or hardware defect ») or the transmission of a fault notification message to a remote device (cf. §0068 : « if correction is not possible…transmit the fault notification message to wireless network »), and the remote device does not perform an analysis of such fault notification message.

Thus, Herle does not disclose:

transmitting transmitting from said radiocommunication terminal data representative of at least one operation to be analyzed to a remote analysis device, or

analyzing of the transmitted data representative of said at least one operation by the remote analysis device.

For at least the above reasons, Independent claim 17 is not anticipated by Herle.

3.   Novelty of Amended Claim 17 in View of HERLE

Independent claim 31 is also not anticipated by Herle for similar reasons as claim 17.

With respect to independent claim 30, Herle does not disclose a radiocommunication terminal comprising means for transmitting data representative of at least one operation to be analysed to a remote analysis device.

Thus, independent claims 30 and 31 are also not anticipated by Herle.

Applicant therefore respectfully requests that the claim rejections under §102(e) based on Herle be withdrawn.

The Director is authorized to charge any fee deficiency required by this paper or credit any overpayment to Deposit Account No. 23-1123.

Respectfully submitted,

WESTMAN, CHAMPLIN & KELLY, P.A.

By: __/David D. Brush/_____
   David D. Brush, Reg. No. 34,557
   900 Second Avenue South, Suite 1400
   Minneapolis, Minnesota 55402-3319
DDB:kmm   Phone: (612) 334-3222 Fax: (612) 334-3312